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**Table of Contents for 1015 E. 12<sup>th</sup> Street Tree Permit**  
**Heritage Tree Variance Package**

The variance package is organized as follows:

1. Cover Sheet
2. Staff Memorandum
3. Staff Findings of Fact
4. Exhibits
5. Applicant Memorandum and Documentation
6. Environmental Board Motion



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**ITEM FOR PLANNING COMMISSION AGENDA**

**BOARD MEETING**

**DATE REQUESTED:** September 10, 2013

**ADDRESS  
OF PROPERTY:** 1015 E. 12<sup>th</sup> Street

**TREE PERMIT #:** 10949349

**NAME OF APPLICANT:** Austin Stowell  
President  
Keep Investment Group, LLC  
512-294-8468

**CITY ARBORIST  
STAFF:** Keith Mars, 974-2755  
keith.mars@austintexas.gov

**ORDINANCE:** Heritage Tree Ordinance (LDC 25-8-641)

**REQUEST:** The applicant is requesting to remove a heritage tree with a stem greater than 30" in diameter.

**STAFF**

**RECOMMENDATION:** The request to remove the 30" Pecan meets the City Arborist approval criteria set forth in LDC 25-8-624(A)(2), thus the variance is recommended.



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## MEMORANDUM

**TO:** Dave Anderson, Chair  
Members of the Planning Commission

**FROM:** Keith Mars, City Arborist Program  
Planning and Development Review Department

**DATE:** September 10, 2013

**SUBJECT:** 1015 E. 12<sup>th</sup> Street Heritage Tree Removal

**REQUEST:** The applicant is requesting to remove a heritage tree with a stem greater than 30 inches as allowed under LDC 25-8-643

### Area Description

The subject property is number seven of 10 lots located at 1015 E. 12<sup>th</sup> street (Exhibit 1). The zoning for the lot is CS-MU-NCCD-NP. The lot size is 31.5' (width) x 83.70' (depth) and the tree location is in the center of the lot (Exhibit 2). The desired use is a single-family residence. The property is located in the Waller Creek Watershed and is subject to urban watershed regulations.

### Tree Evaluation

#### *Measurements*

The subject tree is a 30.0 inch diameter at breast height (dbh) Pecan (*Carya illinoensis*). The tree height is 55 feet and the canopy spread is 60 feet (Exhibit 3).

#### *Canopy Conditions*

The canopy architecture displays minor asymmetry. Storm damage and/or dieback in the canopy are evident in most branches (Exhibit 4). Minor cavities and decay are present in several stems (Exhibit 5). Reaction wood, likely compensating for solid wood loss, has occurred in one of the scaffolding branches (Exhibit 6). One of the main leaders has been broken, likely resulting from storm damage (Exhibit 7).

#### *Trunk*

Unremarkable (Exhibit 7).

#### *Root System*

Root flare is apparent at grade. No defects are apparent. Critical root zone conditions are characterized by turf grass, compacted soil, and a sidewalk (Exhibit 8).

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**Overall Condition**

There are considerable structural and biological defects, but the hazard is not likely imminent. Rather, the tree canopy conditions are symptomatic of typical Pecan decline likely resulting from drought and heat stress coupled with upland environmental conditions ill-suited for Pecan tolerance range. It is reasonable to expect continued decline of the subject tree. The City Arborist Tree Evaluation provides additional details (Exhibit 9).

**Variance Request**

The variance request is to allow removal of a heritage tree with one stem greater than 30 inches as allowed under LDC 25-8-643.


**Recommendation**

Though not an imminent hazard, the subject tree should not be preserved due to the aforementioned overall conditions. Further, it is not reasonable to incorporate the tree into the design given the location of the tree in the center of the lot and the likely decline of the subject tree with or without development activities. The variance request meets approval criteria for the City Arborist per LDC 25-8-624(A) (2). For the City Arborist determination on reasonable use see Exhibit 10.

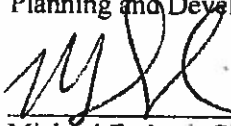
**Mitigation**

The suggested mitigation is reduced from 300% to 100% due to tree condition as allowed per ECM 3.5.4. Due to the lot dimensions, mitigation in the form of tree planting should be distributed across the 10 lots associated with this property. Mitigation should be 30 inches of native trees planted on the 10 associated lots.

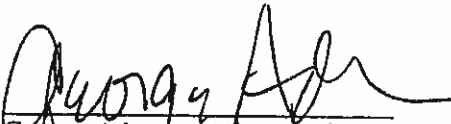
If you need further details, please contact me at 974-2755 or [keith.mars@austintexas.gov](mailto:keith.mars@austintexas.gov).



Keith Mars, Environmental Program Coordinator  
Planning and Development Review Department



Michael Embesi, City Arborist  
Planning and Development Review Department



George Adams, Assistant Director  
Planning and Development Review Department



**City Arborist  
Planning and Development Review Department  
Staff Recommendations Concerning Heritage Tree Variances**

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**Application Address: 1015 E. 12<sup>th</sup> Street**

**Size and Species of Tree(s): 30.0" Pecan (*Carya illinoensis*)**

**Reason for Request: The applicant is requesting to remove a heritage tree with a stem greater than 30 inches as allowed under LDC 25-8-643**

**Section 1 – Approval Criteria**

1) The requirement for which a variance is requested prevents a reasonable access to the property.

**No.**

2) The requirement for which a variance is requested prevents a reasonable use of the property.

**Yes. Please see Exhibit 10 for the reasonable use determination rationale.**

3) The tree presents an imminent hazard to life or property and the hazard cannot be reasonably mitigated without removing the tree.

**No.**

4) Is the tree dead?

**No.**

5) Is the tree diseased? If so, is restoration to a sound condition practicable or can the disease be transmitted?

**No. However, substantial canopy loss has occurred likely due to drought stress.**

6) For a tree located on public property or a public street or easement, the requirement for which a variance is requested prevents:

a) the opening of necessary vehicular traffic lanes in a street or ally, or

b) the construction of utility or drainage facilities that may not feasibly be rerouted.

**NA.**

7) The applicant has applied for and been denied a variance, waiver, exemption, modification, or alternative compliance from another City Code provision which would eliminate the need to remove the heritage tree, as required in Section 25-8-646 (*Variance Prerequisite*).

**No.**

8) Removal of the heritage tree is not based on a condition caused by the method chosen by the applicant to develop the property, unless removal of the heritage tree will result in a design

that will allow for the maximum provision of ecological service and historic and cultural value from the trees preserved on the site.

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No.

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**Name:** Keith Mars, Environmental Program Coordinator  
City Arborist Program  
Planning and Development Review Department

**Signature:**

Keith Mars

**Date:**

8/5/13



Exhibit 1

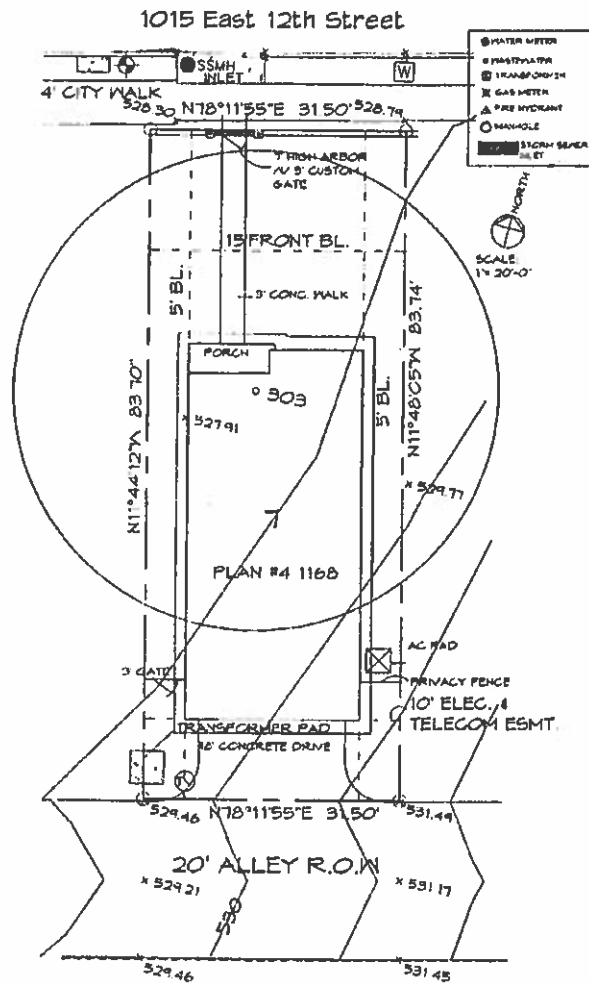


The City Arborist Program

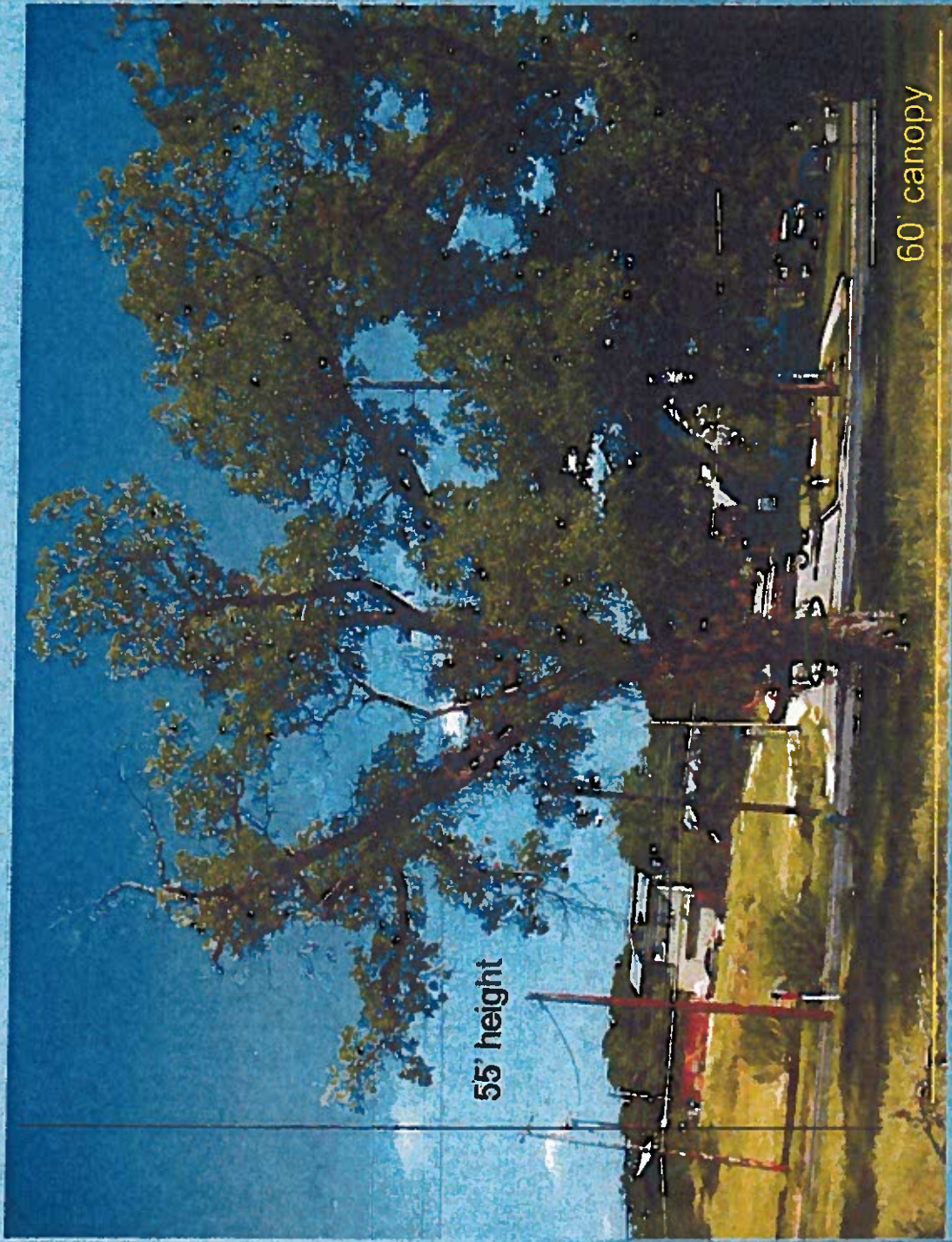
Tree Preservation and Replenishment

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Exhibit 2 *CC*  
*8*







55' height

60' canopy

Exhibit 3



The City Arborist Program

Tree Preservation and Replenishment

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Exhibit 4



## The City Arborist Program

Tree Preservation and Replenishment

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Exhibit 5



The City Arborist Program

Tree Preservation and Replenishment

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Exhibit 6



The City Arborist Program

Tree Preservation and Replenishment

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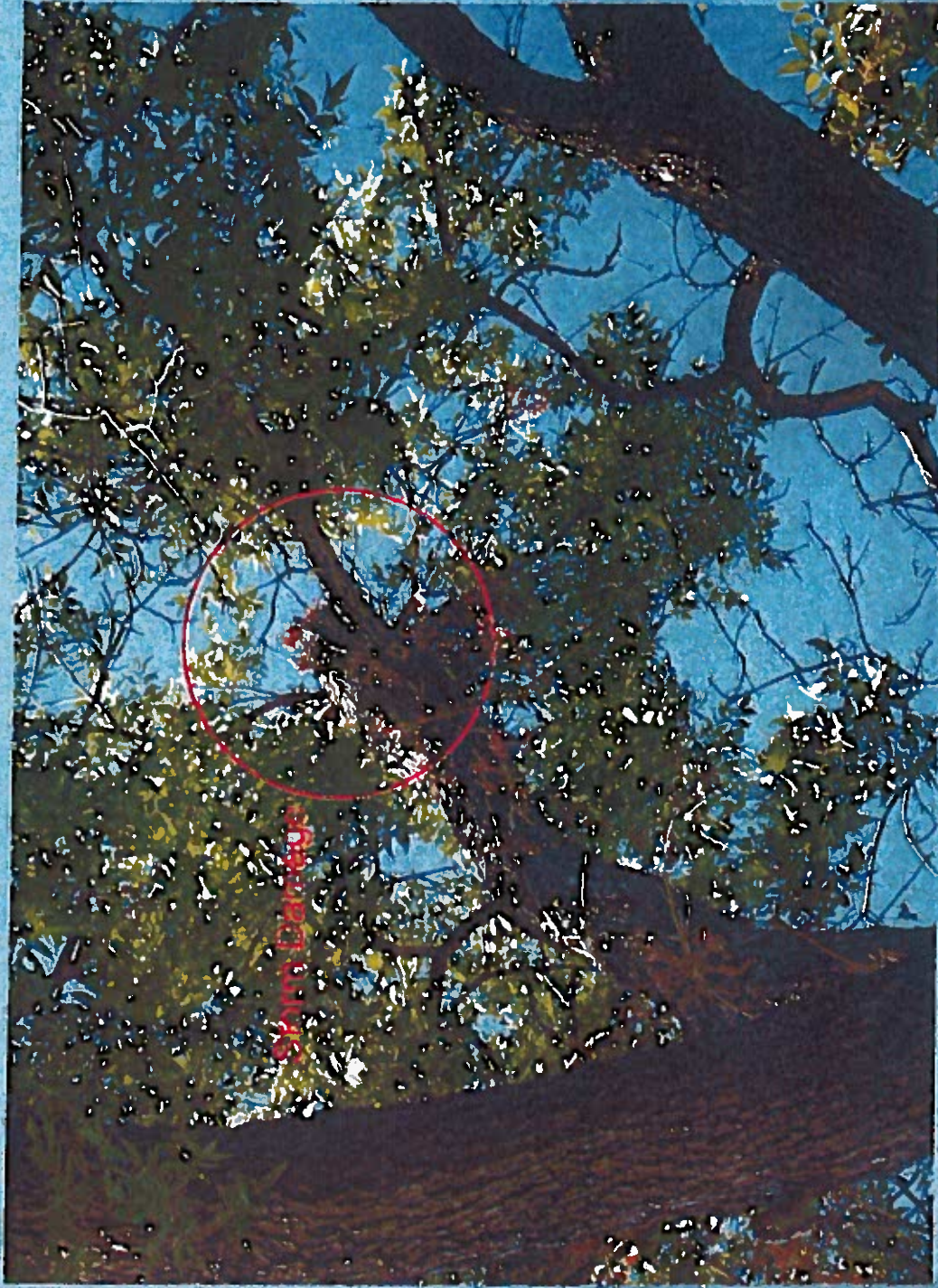


Exhibit 7



The City Arborist Program

Tree Preservation and Replenishment

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Exhibit 8



The City Arborist Program

Tree Preservation and Replenishment

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Exhibit 9  
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## TREE EVALUATION

Property address: 1015 E 12th St.

Date: 8/5/13

Evaluator: Keith Mars

SIGNATURE: Keith Mars

ISA/ASCA Certification #: TX-3677AM

### 1. TREE CHARACTERISTICS

DBH of each trunk: 30.0 Common & Latin name: Pecan, Carya illinoensis  
Location: Private / Public Estimated height & canopy spread (ft): 55' x 60'  
Age class: young / mature / over-mature / dead (if dead, there is no need to fill out section 2)  
Deadwood: 0% 0-10% 10-25% 25-50% >50%  
Form: generally symmetric / minor asymmetry / major asymmetry / stump sprout  
Pruning history: crown cleaned / excessively thinned / topped / crown raised  
pollarded / crown reduced / utility clearance / storm damage cleaning / none  
Crown class: dominant / co-dominant / intermediate / suppressed

### 2. TREE HEALTH

Foliage color: normal / chlorotic / necrotic Epicormics: Y / N  
Foliage density: normal / sparse Leaf size: normal / abnormal  
Annual shoot growth: 4 inches Twig dieback: Y / N  
Callus development: Y / N If so, is callusing: excellent / average / fair / poor  
Vigor class: excellent / average / fair / poor  
Major pests/diseases: None present

### 3. SITE CONDITIONS

Site character: residence / commercial / industrial / park / open space / natural / other (see below)  
Landscape type: parkway / raised bed / container / open / other (see below)  
Irrigation: none / adequate / inadequate / excessive / trunk wetted  
Dripline paved: 0% 10-25% 25-50% 50-75% 75-100%  
Dripline w/ fill soil: 0% 10-25% 25-50% 50-75% 75-100%  
Dripline grade lowered: 0% 10-25% 25-50% 50-75% 75-100%  
Dripline grade raised: 0% 10-25% 25-50% 50-75% 75-100%  
Soil problems: drainage / shallow / compacted / small volume / other (see below)  
Obstructions: lights / signage / line of sight / view / overhead lines / traffic / other (see below)  
Wind (tree position): single tree / below canopy / above canopy / recently exposed / canopy edge  
Other: \_\_\_\_\_



4. TREE DEFECTS – IDENTIFY ALL AREAS AND SEVERITY THAT APPLY TO EACH DEFECT

DEFECT TYPE	DEFECT AREA	DEFECT SEVERITY	NOTES	LEGEND
Poor taper	B	L		AREA T – Trunk(s) R – Root Flare L – Lateral Roots S – Scaffolds B – Branches
Codominants/forks	T, S	L	potential decay	
Multiple attachments				SEVERITY S – Severe M – Moderate L – Low
Included bark				
Excessive end weight				
Cracks/splits				
Hangers				
Girdling				
Wounds				
Decay	S, C	M	storm damage	
Cavity	S, B	M	storm damage	
Conks/Mushrooms				
Bleeding				
Loose/cracked bark				
Nesting hole/bee hive				
Deadwood/stubs	B	M, S	typical environmental dieback	
Borers/termites/ants				
Cankers/galls				
Previous failure	C	M		

7. OTHER FEATURES

Lean: 0 degrees from vertical natural or unnatural      Soil heaving: Y / N  
 Decay in plane of lean: Y / N      Roots exposed: Y / N      Soil cracking: Y / N  
 Lean severity: S / M / L      Compounding factors: \_\_\_\_\_  
 Suspect root rot: Y / N      Mushroom/conk present: Y / N ID: \_\_\_\_\_  
 Exposed roots: S / M / L      Undermined: S / M / L  
 Root pruned: \_\_\_\_\_ feet from trunk      Root area affected: \_\_\_\_\_%      Buttress wounded: Y / N  
 Restricted root area: S / M / L      Potential for root failure: S / M / L

6. TARGET AND ABATEMENT

Use under tree: \_\_\_\_\_ building / parking / traffic / pedestrian / recreation / landscape / hardscape  
 Occupancy: occasional use / medium, intermittent use / frequent use      Can target be moved: Y / N

RISK ABATEMENT

Action: prune / remove / other      Comments: \_\_\_\_\_

7. COMMENTS OR OTHER RISK FACTORS

Storm damage and/or dieback in almost every branch.  
Main leader likely lost to storm damage.





City Arborist Reasonable Use Determination:  
Criteria and Application to the Subject Property

1. Has the applicant applied for and been denied a variance, waiver, exemption, modification or alternative compliance from another city code provision which would eliminate the need to remove the heritage tree?

Due to the location of the tree on the lot it does not appear a variance, waiver, exemption, modification or alternative compliance could be sought that would preserve the tree.

2. Is the removal of the heritage tree based on a condition caused by the method chosen by the applicant to develop the property, and if so, will removal of the heritage tree result in a design that will allow for the maximum provision of ecological service, historic, and cultural value of the trees on the site?

Given the central location of the tree, removal does not appear to be based on the method of development chosen.

3. Is this the minimum change necessary?

Yes. No other variances are being sought at this time.

4. What is the zoning and allowable impervious cover for the property? Does intensity of development or size of the lot contribute to reasonable use?

The lot dimensions are 31.5'(width) x 83.70'(depth). This lot is considered non-standard lot dimensions.

5. Is the application to derive reasonable use a result of the actions by the applicant in subdividing the property or adjusting boundary lines (i.e. is this issue self imposed)?

No. The property has not recently been subdivided.

\*This document was created by the City Arborist to assist in determining whether a tree proposed for removal prevents a reasonable use of the property. This is not an official or legally binding document, and the considerations used by the City Arborist are subject to change.

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6. Does the proposal mitigate the removal to the maximum extent possible?

Staff has provided mitigation options per the Environmental Criteria Manual.

7. Is there a history of non-compliance with the site?

AMANDA records do not indicate a history of non-compliance.

Conclusion: The tree prevents a reasonable use of the property. The City Arborist recommends granting the variance to allow removal of the tree, once mitigation conditions are established and either satisfied or fiscal security posted to ensure performance of the mitigation conditions.

\*This document was created by the City Arborist to assist in determining whether a tree proposed for removal prevents a reasonable use of the property. This is not an official or legally binding document, and the considerations used by the City Arborist are subject to change.



C6/19

Memo RE: Heritage Tree 1015 E 12<sup>th</sup> Street

Re: Variance request from the Land Use Commission

A request has been submitted by Jon Smiley, President, ion Constructors and Austin Stowell, Development Partner, Butler Family Interests to remove a pecan tree, approximately 30" in size from the center of the lot located at 1015 E 12<sup>th</sup> Street. Please see attached site plan and survey for reference.

The size is as follows as referenced in the City of Austin IFB when these lots were purchased:

1015 W 12<sup>th</sup> St     31.5' (width) x 83.70' (depth)     Size 2637 sq ft

The presence of this particular tree prevents reasonable use and development of this lot due to the size of the lots and size of the critical root zone (CRZ). The size of the lot and the required setbacks leave us with little option other than removal. We have exhausted efforts to create a reasonable alternative design. The side setbacks provide us with only 21.5' of width in which to build. The trees central location in this parcel prevents a lateral design change. In addition, the front setback of 15' and rear setback of 10' further restrict our options and force us to remove the tree in order to maintain reasonable use of this particular parcel. There is not an alternative orientation of the structure that would allow us to both build on the lot and retain the tree. We are therefore seeking a variance for it's removal. We have met with both Keith Mars and Michael Embesi of the City of Austin Arborist Program and have retained staff recommendation to remove the tree.

Sincerely,

**Austin Stowell**  
President  
**Keep Investment Group, LLC**  
Austin@keeprealestate.com  
C: 512.294.8468  
F: 512.590.8709

4' CITY WALK

528.30 N78°11'55"E 31.50' 528.79

THOMAS ARSON  
TV & CUSTOM  
GATE

15' FRONT BL.

5' BL.

5' CONC WALK

5' BL.

11°44'12"N 83.70"

527.91

° 303

PLAN #4 1168

529.77

11°40'05"N 83.74"

5' BL.

AC PAD

PRIVACY FENCE

10' ELEC. TELECOM ESMT.

TRANSFORMER PAD

15' CONCRETE DRIVE

529.46 N78°11'55"E 31.50' 531.49

20' ALLEY R.O.W.

529.21

531.17

529.46

531.45

LEGEND:

- WATER
- SEWER
- TRANSFORMER
- 4" & 6" PIPE
- PREF. HYDRANT
- MANHOLE
- STORM - 18" & 24"
- 4" & 6"

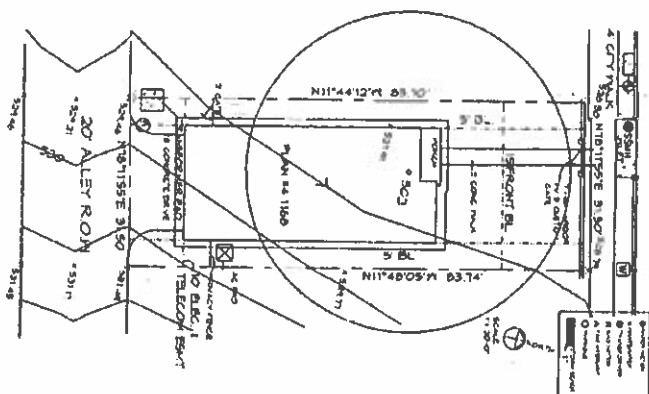
SCALE 1" = 20' 0"

NORTH

[illegible]

## 20080618-094

- § 232.2 (3) "Accessible entrance" means any entrance to a building, room or structure provided on the first story of a building, such that a person using a wheelchair can enter the building without the need for a lift or other device to enter the building.



Legal Description	
Subdivision	Anderson Hill
Lot	7
Block	A
Address	1015 E. 12th St.
Plan Number	#4-1168
Date	5.29.13

Plan Footage Calculations		
	Heated	Unheated
1st floor	533	
Front porch		37
Side porch		
Garage		434
2nd floor	635	
Master deck		
Rear deck		
3rd floor		
Open Deck		
Total Heated:	1168	
Total Unheated:		471
Slab		1003
Total Project:		1538

Site Footage Calculations	
Lot Size	2637
Allowable LC (65%)	1714
Slab	1003
Dryw	188
Walk	81
Other	21
AC Pad	9
Total	1302
Imp. Cover %	49.37%

Plan Options for this Address Only	
1. Brushed Chrome Hardware	
2. Stained Front Door	

These plans have been reviewed by Catherine Walker, U. Waikato. My reply (1990) is reprinted as a commentary in the City of Auckland Zoning Ordinance Sub-committee Report, Auckland City Council and City of Auckland, as well as in the Auckland Review of the current zoning and building requirements of the City of Auckland. These plans are found in the commentary in the 2006 International Metropolitan Code and the City of Auckland.

[illegible]

**BARRON CUSTOM  
DESIGN**  
Pete's House, Portland  
122.625.1078  
barroncustomdesign.com



# CONSTRUCTORS

12TH ST. CITY HOMES  
PLAN # 4  
1168 sq. ft

NAME	DEPARTMENT	DATE
01	Engineering	5.29.11

## Site Plan

A100

1000



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**ENVIRONMENTAL BOARD RECOMMENDATION 20130821 006C**

**Date:** August 21, 2013

**Subject:** The applicant is requesting to remove a heritage tree with a stem greater than 30 inches as allowed under Land Development Code 25-8-643.

**Motioned By:** James Schissler, P. E.

**Seconded By:** Mary Ann Neely

**Recommendation:**

Whereas the location of the Pecan Tree prevents a reasonable use of the lot for a single family lot.

Therefore, the Environmental Board recommends approval of the request to remove a heritage tree with a stem greater than 30" as allowed under Land Development Code 25-8-624(A)(2).

**Vote:** 4-3-0-0

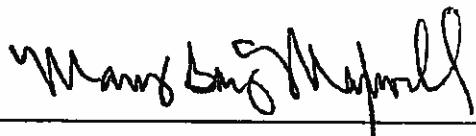
**For:** Maxwell, Schissler, Neely and Deegan

**Against:** Gary, Perales and Walker

**Abstain:** None

**Absent:** None

**Attested by:**

  
\_\_\_\_\_